

### **304.2-065 Early warning analyst.**

- (1) There is created within the Office of Insurance the position of early warning analyst.
- (2) The executive director shall appoint a qualified person to serve as early warning analyst.
- (3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business in the Commonwealth that are in a hazardous or potentially hazardous financial condition.
- (4) The early warning analyst shall be part of the Financial Standards and Examination Division.
- (5) The early warning analyst shall:
  - (a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;
  - (b) Seek information from other states' detection programs;
  - (c) Work with other Office of Insurance employees representing key regulatory areas of the office;
  - (d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:
    1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;
    2. An insurer files financial information which is false or misleading;
    3. An insurer overstates its surplus by twenty-five percent (25%) or more;
    4. An insurer fails to grant authorization to amend its financial statement when requested;
    5. An insurer's financial ratios are outside of the usual range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;
    6. A projection by the office of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;
    7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;
    8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;
    9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;
    10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general

account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;

11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are more than ten percent (10%) of an insurer's surplus;
  12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;
  13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;
  14. An insurer has reinsurance agreements affecting twenty percent (20%) or more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;
  15. An insurer's management does not have the experience, competence, or trustworthiness to operate the insurer in a safe and sound manner;
  16. An insurer's management engages in unlawful transactions;
  17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage loan;
  18. An insurer fails to comply with the terms of an agreement with an affiliate;
  19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;
  20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;
  21. An insurer violates KRS Chapter 304;
  22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and
  23. An insurer is in any condition that the executive director finds is a hazard to policyholders, creditors, or the general public;
- (e) Recommend regulatory action and provide status reports to the executive director; and
- (f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance annually to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 24, sec. 1, effective July 13, 2004. -- Amended 1998 Ky. Acts ch. 483, sec. 2, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 496, sec. 4, effective July 15, 1994.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.